

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESOLUTION NO. 94-085

RECOMMENDATION FOR WATER QUALITY CERTIFICATION
FOR
CALIFORNIA DEPARTMENT OF FISH AND GAME
ISLAND SLOUGH WETLAND DEVELOPMENT PROJECT
WETLAND FILL
SUISUN MARSH, SOLANO COUNTY

WHEREAS, the California Department of Fish and Game (CDFG) has applied to the State for Water Quality Certification under Section 401 of the Federal Clean Water Act for the filling of 10.99 acres of wetlands which have been delineated as such under Section 404 of the Federal Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899; and

WHEREAS, these wetlands will be filled in the course of the Island Slough Wetland Development Project, which would develop 254 acres of wetland habitat to offset construction impacts associated with the Initial Facilities and degradation of waterfowl habitat value on the Channel Islands and 100 acres of habitat to offset future anticipated losses of salt marsh harvest mouse habitat; and

WHEREAS, these wetlands to be filled are waters of the State and of the United States; and

WHEREAS, this Development Project would require construction of a water intake structure, water conveyance channels, perimeter and field levees, and other structures;

WHEREAS, the Regional Board under Section 401 of the Clean Water Act reviews applications to determine if the proposed activity will meet State water quality objectives for Water Quality Certification for the proposed activity; and

WHEREAS, Water Quality Certification is a certification for an activity that requires a federal license or permit that there is reasonable assurance that the activity which may result in discharge to waters of the United States will not violate water quality objectives (Title 23, California Code of Regulations, Section 3830 et. seq.); and

WHEREAS, CDFG submitted an application for water quality certification on February 16, 1994; and

WHEREAS, the California Environmental Quality Act (CEQA) requires all projects approved by State agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (EIR or Negative Declaration) for such projects; and

WHEREAS, CDFG prepared a Negative Declaration for this project and signed it on June 26, 1992; and

WHEREAS, the 10.99 acres of fresh/brackish marsh and seasonal wetland proposed to be filled contain areas composed of hydric soils that are periodically inundated with surface and groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and are therefore defined as a wetland according to 40 CFR 122.2; and

WHEREAS, these areas covered by wetland vegetation provide valuable habitat for resident and migratory birds of a wide variety of species as well as provide wildlife habitat; and

WHEREAS, the Regional Board, in Resolution No. 87-106, dated August 19, 1987, adopted, in accordance with Section 13244 et. seq. of the California Water Code, amendments to the Water Quality Control Plan, San Francisco Bay Basin (Basin Plan) that established a policy for regulating wetland fill. However, this policy has not been approved by the State Office of Administrative Law; and

WHEREAS, the proposed Basin Plan Wetland Fill Policy seeks to establish that there be no net loss of wetland acreage and no net loss of wetland habitat value when the project and the proposed mitigation are evaluated together and that mitigation for wetland fill projects be located in the same area of the Region, wherever possible, as the project; and

WHEREAS, CDFG has submitted an alternatives analysis that addresses the requirements of Section 404(b)(1) of the Clean Water Act, and the Regional Board has utilized this alternatives analysis in their consideration of the case; and

WHEREAS, Section 13142.5 of the California Water Code requires that the "Highest priority shall be given to improving or eliminating discharges that adversely affect...Wetlands, estuaries, and other biologically sensitive sites."; and

WHEREAS, Senate Concurrent Resolution No. 28 states that, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the State."; and

WHEREAS, the discharge of fill material into the wetlands of the project site will cause a condition of pollution to exist in these waters of the State by altering the quality and quantity of water in the area, that is needed to support wetland beneficial uses, to a degree that will eliminate the beneficial uses of these waters of the State; and

WHEREAS, CDFG has proposed mitigation measures, as part of the application for Water Quality Certification, to offset the loss of beneficial uses of waters of the State, resulting from the discharge of fill material into the wetlands of the State at the project site; and

WHEREAS, the proposed mitigation involves the creation of 19.96 acres of wetlands; and

WHEREAS, the proposed wetlands are considered in-kind habitat replacement for the wetlands that will be lost due to the project, on a greater than acre-for-acre basis; and


WHEREAS, the proposed mitigation plan will ensure that this project will not result in a net loss of wetland values or acreage and is therefore in compliance with the proposed Basin Plan Policy; now

BE IT THEREFORE RESOLVED, that this Regional Board recommends that the Executive Director of the State Water Resources Control Board grant Water Quality Certification pursuant to Section 401 of the Clean Water Act and State regulations in Title 23 California Code of Regulations Section 3830 et. seq., for the CDFG Island Slough Wetland Development Project, with the provisions that:

1. A mitigation and monitoring plan for the compensation of the 10.99 acres of filled wetlands shall be submitted by CDFG for review to the Regional Board and the U.S. Army Corps of Engineers by September 1, 1994. The work on the compensation shall not begin until after approval of the plan by the Regional Board.
2. An annual wetland mitigation and monitoring report shall be submitted by CDFG to the Regional Board and the U.S. Corps of Engineers by August 1 of each year, starting in 1995 and ending the year the mitigation is successful. This report shall contain the previous year's (July 1 to June 30) monitoring for the 19.96 acres of wetland mitigation, as detailed in the mitigation and monitoring plan.

BE IT FURTHER RESOLVED, that this Regional Board directs the Executive Officer to transmit this resolution to the Executive Director of the State Water Resources Control Board.

I, Steven R. Ritchie, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on July 20, 1994.


for Steven R. Ritchie
Executive Officer